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A Professional Association
2421 N.W. 41st Street
Suite A-1
Gainesville, FL 32606

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Telephone (352) 375-8100
Facsimile (352) 372-5800

TO: Christina Chan **FROM:** Frank C. Eisenschenk, Ph.D.
COMPANY: U.S. Patent Office, Art Unit 1644 **DATE:** May 22, 2002
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SUBJECT/MESSAGE: U.S. Patent Application Docket No. SPO-103
Peptide-Based Immunotherapeutic Agent for Treating Allergic
Diseases
(Sone, et al.)
Serial No. 09/142,524; Filed September 9, 1998

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TRANSACTION REPORT

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SALIWANCHIK, LLOYD & SALIWANCHIK

A Professional Association
2421 N.W. 41st Street
Suite A-1
Gainesville, FL 32606

Telephone (352) 375-8100
Facsimile (352) 372-5800

TO: Examiner Marianne Dibrino

FROM: Frank C. Eisenschank, Ph.D.

COMPANY: U.S. Patent Office, Art Unit 1644

DATE: March 4, 2002

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SUBJECT/MESSAGE:

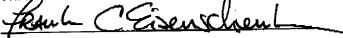
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ELECTION
Examining Group 1644
Patent Application
Docket No. SPO-103
Serial No. 09/142,524


Frank C. Eisenschenk, Ph.D., Patent Attorney

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Examiner : M. DiBrino, Ph.D.
Art Unit : 1644
Applicants : Toshio Sone, Akinori Kume, Kazuo Dairiki, Akiko Iwama, Kohsuke Kino
Serial No : 09/142,524
Filed : September 9, 1998
For : Peptide-based Immunotherapeutic Agent for Treating Allergic Diseases

Assistant Commissioner for Patents
Washington, D.C. 20231

ELECTION

Sir:

A Petition and Fee for a four-month Extension of Time through and including March 4, 2002, accompanies this Response. As indicated below, Applicants hereby elect, with traverse, the invention of Group I, claims 1, 4-6, 13, 17, 31-34, and 48.

Remarks

Applicants hereby affirm their election, with traverse, of the invention of Group I, claims 1, 4-6, 13, 17, 31-34, and 48. For the reasons set forth below, Applicants respectfully request reconsideration and withdrawal of the restriction requirement set forth October 2, 2001.

Applicants traverse the restriction requirement set forth in the Office Action of October 2, 2001, and request that the Examiner rejoin the inventions of Groups I and II. It is respectfully submitted that rejoinder of the inventions would not create an undue search or examination burden on the Examiner or the Patent Office, especially since the examination of the two inventive groups

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Docket No. SPO-103
Serial No. 09/142,524

has been performed in the parent application and the patentability of both inventive groups revolves around the patentability of the peptides provided in the invention of Group I and used in the invention of Group II.

Furthermore, while Applicants recognize that the Examiner may issue a restriction requirement and, under 35 U.S.C. § 121, require Applicants to elect an invention, such a restriction requirement is discretionary on the part of the Examiner and need not, in actuality, be issued. Additionally, in instances where the product is elected for examination and the product is subsequently found allowable, withdrawn process claims that depend from (or otherwise include all the limitations of the allowable product) will be rejoined pursuant to the Notice published in the Official Gazette (1184 O.G. 86, March 26, 1996). Thus, since the elected invention corresponds to the product, the process claims of the invention will be rejoined upon the identification of allowable subject matter. Accordingly, reconsideration and withdrawal of the restriction requirement is respectfully requested.

Additionally, and as the Examiner is aware, the instant application is a continuing prosecution application of application serial number 09/142,524, which is a national stage application of PCT application JP97/00740. The parent application was examined under unity of invention rules that provide for the examination of inventions sharing common technical features. The common technical feature, shared by the inventions of the parent application, and claimed in this continuing prosecution application corresponds to the peptides provided in inventive Group I and used in the invention of Group II. Accordingly, examination of both inventive groups is respectfully requested.

In view of the foregoing remarks, Applicants believe that the currently pending claims are in condition for allowance, and such action is respectfully requested.

The Commissioner is hereby authorized to charge any fees under 37 C.F.R. §§ 1.16 or 1.17 as required by this paper to Deposit Account No. 19-0065.

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Docket No. SPO-103
Serial No. 09/142,524

Applicants invite the Examiner to call the undersigned if clarification is needed on any of this response, or if the Examiner believes a telephonic interview would expedite the prosecution of the subject application to completion.

Respectfully submitted,



Frank C. Eisenschenk, Ph.D.

Patent Attorney

Registration No. 45,332

Phone No.: 352-375-8100

Fax No.: 352-372-5800

Address: Saliwanchik, Lloyd & Saliwanchik
A Professional Association
2421 NW 41st Street, Suite A-1
Gainesville, FL 32606-6669

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Attachment: Petition for 4-Month Extension of Time